

REMARKS/ARGUMENTS

1. Status of the Claims

As a result of the above amendments, claims 21-26 and 29 remain pending. Claims 21 and 24 have been amended, Claim 30 has been canceled, and no claims have been added. No new matter has been added. Entry of the above amendments and reconsideration of this application is requested.

2. Means-Plus-Function Language

Regarding Claim 29, the Examiner indicated the Applicants' alleged need to "explicitly state, with reference to the terms and phrases of the claim element, what structure, materials, and acts perform the function recited in the claim element." The Applicants have amended the Specification in accordance with the Examiner's position and respectfully request the objection to the informality be removed.

3. Claim Rejections Under 35 U.S.C. §112

Claim 24 has been amended to more particularly point out and distinctly claim the subject matter that Applicants regard as the invention. Applicants respectfully request the rejection be removed and the claim allowed.

4. Claim Rejections Under 35 U.S.C. §102

Claims 21-26 and 29 have been rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 4,512,040, issued to McClure ("*McClure '040*"). To more distinctly claim the invention, Applicants have amended Claim 21 to include the element of Claim 30.

As amended Claim 21 is directed to an ocular apparatus including a housing member configured to be at least partially placed beneath one of the upper and lower eyelids and directly adjacent an eye of a patient wherein a medicament or other fluid can be delivered to the patient. The ocular apparatus further includes a medicament containment member associated with the housing and a current distribution member in electrical communication with the medicament containment member. A handle member is operably connected to the housing wherein the housing member in combination with the handle member cooperates with a corner of the patient's eye to maintain registered placement of the ocular apparatus.

In contrast to Applicants' claimed invention, *McClure '040* discloses a bifocal intraocular lens for surgical implantation within the human eye. (*McClure '040*, column 3, lines 35-37) The intraocular lens is fastened to the iris by an attachment means 28, 30, 54, 56, e.g., J-loop or J-hook. (*McClure '040*, column 3, lines 20-49) The intraocular lens consists of an inner and outer transparent wall defining a centrally located refractive chamber containing an inescapable liquid having a predetermined refractive index. The refractive chamber is responsive to the line of sight wherein the chamber and the liquid cooperate to provide a bifocal effect.

Thus, *McClure '040* fails to disclose at least a current distribution member in electrical communication with the medicament containment member. Additionally, amended Claim 21 is neither disclosed nor suggested by any other cited prior art reference, alone or in combination.

Because none of the cited prior art references disclose, teach, or suggest—alone or in combination—each and every element of the Applicants' claimed invention, Applicants respectfully request that the rejections under 35 U.S.C. 102(b) of amended independent Claim 21, and all claims depending directly or indirectly thereon, be withdrawn.

5. Claim Rejections Under Obviousness-type Double Patenting

Claims 21 and 30 have been deemed by the Examiner to be non-identical to, but not patentably distinct from, the claims of U.S. Patent No. 6,319,240. As such, Applicants—through their attorney—submit herein a terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) to overcome the double patenting rejection based on commonly owned U.S. Patent No. 6,319,240.


CONCLUSION

In view of the above amendments and remarks, Applicants respectfully request that all pending claims be passed to issue.

Should anything further be required, a telephone call to the undersigned, at (312) 226-1818, is respectfully invited.

Respectfully submitted,
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 20, 2004.

Joseph M. Kinsella Jr.

